

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING

Indiana Government Center South  
402 West Washington Street  
Conference Center Room A – 1:30 p.m.  
Indianapolis, Indiana  
May 15, 2007

The meeting was called to order by Mayor William Graham, Chairperson, at 1:36 p.m. Those present for all or part of the meeting were:

Mr. Michael Carnahan  
Mr. Mark Davis  
Mr. Chuck Himes  
Dr. Lenore Tedesco  
Mr. Jason Ward  
Mr. Howard Cundiff (Proxy, Indiana State Department of Health)  
Mr. Steve Boyce (Proxy, Lieutenant Governor's Office)  
Ms. Pamela Fisher (Proxy, Indiana Economic Development Corporation)  
Mr. Tom Hohman (Proxy, Department of Natural Resources)

A quorum was present.

In addition, the following Indiana Department of Environmental Management (IDEM) staff members were present for all or part of the meeting:

Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality  
Ms. Bonnie Nash, Rules, Planning, and Outreach Section  
Ms. Marjorie Samuel, Rules, Planning, and Outreach Section  
Ms. Lori Kyle Endris, Chief, Office of Enforcement  
Ms. Daniela Klesmith, Engineering, Permits Branch  
Ms. Ann Long, Office of General Counsel

1. Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of March 20, 2007. There were none. Mayor Graham asked for a motion to approve the minutes as presented. Mr. Mark Davis so moved and Mr. Michael Carnahan seconded. The motion passed unanimously. APPROVAL OF MINUTES
2. Mayor Graham then invited Mr. Bruce Palin, Assistant Commissioner, to address the Board. Mr. Palin presented information on 2007 legislation that would be of concern to the Solid Waste Board. Specifically, he addressed the following: IDEM REPORTS
  - A. HEA 1192, regarding spills and overfills of underground storage tanks;
  - B. SEA 154, regarding emergency rulemaking;
  - C. SEA 155, regarding alcohol blended fuel underground storage tanks;
  - D. SEA 205, regarding landfill construction permit expirations.
3. Mayor Graham announced the following rulemaking action:
  - Final Adoption of LSA #05-181, Electronic Waste. The proposed rule was published in the Indiana Register on March 7, 2007, at DIN: 20070307-IR-

329050181PRA. This hearing was noticed in the Indiana Register on March 7, 2007, at DIN: 20070307-IR-329050181PHA.

Mayor Graham said that the rule was included in the Board packet for this meeting and is available for public inspection in the Indiana Department of Environmental Management File Room, located on the 12<sup>th</sup> floor of the Indiana Government Center North, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. Instructions were given to the public regarding offering oral statements and comments to the Board. The court reporter was affirmed.

4. Mayor Graham announced the public hearing to consider final adoption of LSA #05-181, the addition of 329 IAC 16 concerning electronic waste. He introduced Exhibit A, the proposed rule, and Exhibit A-1, IDEM's suggested changes, into the record and asked Ms. Daniela Klesmith to address the Board.
- FINAL ADOPTION  
329 IAC 16  
ELECTRONIC WASTE

Ms. Klesmith first referred the Board to a previously-distributed informational paper on the subject of electronic waste, i.e., background, quantities, and hazards of electronic waste. Ms. Klesmith then reviewed the proposed rule, saying that the rule will offer "one-stop shopping" for facilities that store, process and dispose of e-waste. She also explained that "e-waste" was used throughout the rule, but cross-referenced e-waste to electronic scrap in the definition. The rule will encourage legitimate recycling of e-waste and all processors will have the same requirements. Speculative accumulation that may cause environmental harm will be discouraged. The rule also incorporates federal rules regarding cathode ray tubes, making Indiana rules consistent with associated federal regulations. Other specific points include exclusions for e-waste from hazardous and solid waste rules; definitions specific to e-waste, exclusions from the e-waste rule, storage provisions, registration and operational requirements, facility closure requirements and financial assurance. Ms. Klesmith also told the Board about the workgroup that worked to craft the rule. The workgroup, consisting of cities and towns, universities, consultants, solid waste districts, environmental groups and IDEM staff, had nine meetings during a year-long period. Ms. Klesmith said that IDEM is hoping to provide training on the new rule requirements and assistance with the e-waste processor registration form. Ms. Klesmith then read changes to the rule into the record and concluded by recommending adoption of the suggested changes and final adoption of the rule as amended. Please see pages 7 through 12 of the official transcript of this meeting for a verbatim account of Ms. Klesmith's presentation.

Mayor Graham asked for questions from the Board. There were none. Mayor Graham then asked for public testimony. There were no speaker cards and there was no public comment so Mayor Graham concluded the hearing. Mayor Graham asked for a motion to adopt Exhibit A-1, IDEM's suggested changes. Mr. Tom Hohman so moved and Mr. Davis seconded. The motion passed unanimously. Then Mayor Graham asked for a motion to adopt the rule as amended. Mr. Hohman so moved and Mr. Davis seconded. The motion passed unanimously.

5. Mayor Graham said that the Nonrule policy document (NPD), A-002-ONE-06-P-R1, "Self-Disclosure and Environmental Audit Policy", would be presented. Mayor Graham said that the NPD has been made available for comment for a minimum of 45 days. The NPD is available for public inspection, comment, and copying in the file room of the

Department of Environmental Management, 12<sup>th</sup> floor, Indiana Government Center North, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. The NPD was presented by Ms. Lori Kyle Endris.

The stated purpose of the NPD is to encourage regulated entities, including small regulated entities, to voluntarily discover, disclose, correct, and prevent violations of Indiana's environmental requirements. Guidance is set forth in the NPD to assist IDEM in the exercise of its compliance and enforcement discretion. The NPD may be used, where applicable, in settlement negotiations to resolve administrative enforcement actions, but is not intended for use in pleading, at hearing, or at trial. Ms. Endris offered a detailed review of the pending NPD and said that some minor changes have been made from the policy that had been in effect since April of 1999. See pages 15 through 19 of the official transcript of this meeting.

There was discussion, initiated by Mr. Chuck Himes, about the confidentiality clause that appeared at the end of comments that had been e-mailed regarding the NPD. Mr. Palin said that there is a process available to maintain confidentiality if that is required and otherwise, anything submitted to the agency is public record unless that confidentiality process is followed. Ms. Endris also said that the confidentiality notice on an e-mail is an "automatic sort of thing" to have an item "not be discoverable in a court of law" this is accomplished by invoking privilege by statute.

Mr. Jason Ward suggested that an explanation be part of the policy to explain that IDEM's 45-day self-disclosure period does not reduce or eliminate EPA policy to report a disclosure sooner, within 21 days. Ms. Endris agreed that this was a good idea and that after the NPD is effective that some informative comment or note to the user could be placed on the website.

There were no further comments from either the Board or the public. Mayor Graham explained that written comments would be sent within 30 days to Bruce Palin, Assistant Commissioner, Office of Land Quality. However, written responses would not be provided. If the NPD is substantially changed, it will be posted again and presented to the Board. The effective date of this NPD will be June 14, 2007.

6. Mayor Graham then opened the floor to hear from the public on topics of interest and potential rulemaking in Title 329. There were no issues to come before the Board so the meeting was adjourned.
7. Mayor Graham adjourned the meeting at 2:15 p.m. ADJOURNMENT

The next meeting will be July 17, 2007, at 1:30 p.m., at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.\*

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\*The meeting room was changed. The next meeting will be July 17, 2007, at 1:30 p.m., at the Indiana Government Center South, Conference Center Room 12, 402 West Washington Street, Indianapolis, Indiana.